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WINZLER & KELLY

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KFD ENTERPRISES, INC., a California  
Corporation dba Norman's Dry Cleaner,

Plaintiff,

vs.

CITY OF EUREKA, et al.

Defendant.

Case No.: 3:08-cv-04571-MMC

**STIPULATION TO EXTEND THIRD  
PARTY DEFENDANT WINZLER &  
KELLY'S TIME FOR FILING  
RESPONSIVE PLEADINGS**

**AND ~~PROPOSED~~ ORDER**

AND RELATED COUNTERCLAIMS AND  
THIRD PARTY CLAIMS.

Third-Party Defendant Winzler & Kelly ("Winzler & Kelly") and Third Party Plaintiff, The  
City of Eureka ("Eureka") hereby stipulate as follows:

Whereas on November 12, 2010 the Court granted in part and denied in part defendant ERI's  
Motion to Dismiss (See Court Order at Doc No. 332), and therein ordered Plaintiff KFD and Third  
Party Plaintiff City of Eureka to amend their pleadings, if they chose, consistent with the Court  
orders, by December 10, 2010.

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Whereas the Court also ordered Winzler & Kelly to amend its indemnity and contribution claims in its First Amended Cross-Claims ("FACC") if it is so chooses, also by December 10, 2010. See Doc. No. 332, p. 16-17, ¶¶ 7, 11.

Whereas both Winzler & Kelly and Eureka believe that it is in the interests of justice and will conserve judicial and party resources by allowing Winzler & Kelly to amend its pleading of contribution and indemnity claims some time after any amended KFD and Eureka claims are filed on December 10, 2010, so that Winzler & Kelly may properly reference allegations in any newly amended claim pleadings by KFD and Eureka.

Whereas previously Winzler & Kelly and Eureka stipulated to a standstill that allowed Winzler & Kelly to time to respond of up to 21 days after any amended pleadings by the Eureka following the Court's ruling on the ERI Motion. An Order pursuant to that stipulation was entered by the Court on June 6, 2010. See Doc. No. 260.

Whereas both Winzler & Kelly and Eureka believe that this further stipulation will allow a more orderly pleading of claims, in particular for Winzler & Kelly's claims for contribution and indemnification, thereby conserving judicial and party resources.

Therefore, Winzler & Kelly and Eureka hereby stipulate to the following:

- (1) To avoid the parties filing unnecessary pleadings and/or motions, the parties stipulate that Winzler & Kelly has until December 24<sup>th</sup> to file a responsive pleading to Eureka's Third Amended Complaint, if it is not amended by Eureka by December 10, 2010.
- (2) However, should Eureka file an amended pleading pursuant to leave granted in the Court's November 12, 2010 order, the deadlines for Winzler & Kelly to respond to such amended pleading, and to amend Winzler & Kelly's FACC, shall be those deadlines provided under the Federal Rules of Civil Procedure.

DATED: December 7, 2010

SEVERSON & WERSON  
A Professional Corporation

By: /s/ Peter C. Lyon  
PETER C. LYON

Attorneys for Third Party Defendant  
WINZLER & KELLY

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2  
3 I, Peter C. Lyon, am the user whose identification and password are being used to file this  
4 stipulation. I hereby attest that Charles Bolcom, the other signatory below, has concurred in the  
5 filing of this document.

6 /s/ Peter C. Lyon  
PETER C. LYON

7  
8 DATED: December 7, 2010

DAVIDOVITZ & BENNETT LLP

9  
10 By: /s/ Charles Bolcom  
MORIS DAVISOVITZ  
CHARLES BOLCOM

11  
12 Attorneys for Third Party Plaintiff  
THE CITY OF EUREKA

13 and to the extent any other party is affected, GOOD CAUSE  
14 HAVING BEEN SHOWN,  
15 PURSUANT TO STIPULATION, IT IS SO ORDERED.

16 DATED: December 9, 2010

17 Maxine M. Chesney  
MAXINE M. CHESNEY  
UNITED STATES DISTRICT JUDGE